S.B. CIVIL REVISION PETITION NO.320/2005

Ram Vilas vs. Nirmal Chand and others.

Date : 8.8.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. AK Gupta, for the petitioner.

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Heard.

The petitioner is aggrieved against the order dated 15.7.2005 by which the trial court dismissed the application filed by the petitioner/defendant under Order 7 Rule 11 CPC.

According to learned counsel for the petitioner, the petitioner-tenant took the premises in question on rent from Smt. Vimla Devi. She died and her husband and her sons filed the suit for eviction with only allegation that after the death of Vimla Devi, they are receiving the rent from the petitioner-tenant.

According to learned counsel for the petitioner, Vimla Devi was landlord is not a fact in dispute but the plaintiffs have not pleaded that they are filing the suit being successors of Vimla Devi and they have not produced any document evidencing payment of rent by the petitioner to these plaintiffs, therefore, the suit of the plaintiffs should have been dismissed by the trial court under Order 7 Rule 11 CPC.

It is clear from the facts mentioned above that Smt. Vimla Devi is admittedly landlord of the petitioner. She died before the plaintiffs filed the suit and further they came with a case that after death of Smt. Vimla Devi, they were receiving rent, therefore, by no stretch of imagination, it can be said that the plaint is not disclosing the relationship of landlord and tenant between the plaintiffs and defendant and also it cannot be said that the plaint is not disclosing the cause of action.

In view of the above, this court is not inclined to interfere in the impugned order while exercising the revisional jurisdiction.

Accordingly, this revision petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya